STAND. COM. REP. NO.

Honolulu, Hawaii

APR 0 2 2015

H.B. No. 1090 RE:

> H.D. 2 S.D. 2

Honorable Donna Mercado Kim President of the Senate Twenty-Eighth State Legislature Regular Session of 2015 State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 1090, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT AGREEMENTS,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit noncompete and nonsolicit clauses in employment contracts for employees of a technology business.

Your Committee received testimony in support of this measure from the Department of Education, High Technology Development Corporation, O&A Consulting LLC, Radical Synergies LLC, Techmana LLC, Institute of Electrical and Electronic Engineers, and four individuals. Your Committee received testimony in opposition to this measure from PR Tech LLC and PacRim Marketing Group, Inc. Your Committee received comments on this measure from the Chamber of Commerce Hawaii.

Your Committee finds that it is a common practice within the technology industry to include noncompete provisions and other restrictive covenants in employment contracts. These types of provisions can have negative impacts on employment opportunities and on the development of technology businesses in Hawaii. This can be especially problematic in Hawaii, creating an additional limitation on the number of technology workers where there is already a limited market for the size and number of technology businesses.



Your Committee has amended this measure by:

- (1) Inserting language to also prohibit noncompete clauses and nonsolicit clauses in post-employment contracts and separation agreements;
- (2) Deleting language that would have made this measure apply to all written, binding noncompete and nonsolicit clauses entered into after June 30, 2015;
- (3) Inserting a savings clause;
- (4) Amending the effective date to July 1, 2015; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1090, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1090, H.D. 2, S.D. 2.

Respectfully submitted on behalf of the members of the Committee on Judiciary and Labor,

GILBERT S.C. KEITH-ACARAN Chair

The Senate Twenty-Eighth Legislature State of Hawai'i

Record of Votes Committee on Judiciary and Labor JDL

Bill / Resolution No.:*	Committee Referral:			Date: / /		
HB1090HD2SD1	EDT/CPN, JDL 3/3//5			5		
The Committee is reconsidering its previous decision on this measure.						
If so, then the previous decision was to:						
The Recommendation is:						
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313						
Members		Aye	Aye (WR)	Nay	Excused	
KEITH-AGARAN, Gilbert S.C. (C)						
SHIMABUKURO, Maile S.L. (VC)		/				
ESPERO, Will					~	
GABBARD, Mike		V				
IHARA, Jr., Les		~				
THIELEN, Laura H.						
SLOM, Sam						
	. 					
TOTAL		5	1	0	,	
Recommendation:						
Adopted			Not Adopted			
Chair's or Designee's Signature:						
//While it						
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*Only one measure per Record of Votes